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2  
3 UNITED STATES DISTRICT COURT

## 4 DISTRICT OF NEVADA

5 Nicholas McDaniel

Case No.: 3:24-cv-00074-LRH-CLB

6 Petitioner

**Order**

7 v.

8 Timothy Garrett, *et al.*,

9 Respondents

10 *Pro se* Petitioner Nicholas McDaniel has not properly commenced this habeas action by  
11 either paying the standard \$5.00 filing fee or filing a complete application for leave to proceed *in*  
12 *forma pauperis* (“IFP”). He submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under  
13 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit a complete IFP application.

14 Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00  
15 filing fee is required to initiate a habeas action in a federal district court. The court may authorize  
16 an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP  
17 application on the approved form and includes three specific documents: (a) the prisoner’s  
18 financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a  
19 financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the  
20 prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-  
21 1, LSR 1-2.

22 Petitioner will have 45 days from the date of this order to either pay the \$5 filing fee or  
23 submit a complete IFP application with all required documentation.

1 IT IS THEREFORE ORDERED:

2 1. The initial screening of Petitioner's Petition for Writ of Habeas Corpus (ECF No. 1-  
3 1) under the Rules Governing Section 2254 Cases is deferred to until such time as he has fully  
4 complied with this order.

5 2. The Clerk of Court is instructed to send Petitioner a blank form IFP application for  
6 inmates, instructions for the same, and a courtesy copy of this order. The Clerk of Court shall  
7 retain, but not file at this time, the petition for writ of habeas corpus (ECF No. 1-1).

8 3. **Within 45 days of the date of this order**, Petitioner must file an IFP application  
9 that includes a: (a) financial certificate signed by Petitioner and an authorized prison official,  
10 (b) financial declaration and acknowledgement signed by Petitioner, and (c) copy of Petitioner's  
11 inmate account statement for the six-month period prior to filing. Alternatively, Petitioner must  
12 pay the \$5 filing fee within 45 days. If Petitioner decides to pay the filing fee from his inmate  
13 account, he must arrange to have a copy of this order attached to the check for the filing fee.

14 4. Petitioner's failure to comply with this order within 45 days by (a) submitting a  
15 complete IFP application, or (b) paying the filing fee will result in the dismissal of this action  
16 without prejudice and without further advance notice.

17 IT IS SO ORDERED.

18 DATED this 5<sup>th</sup> day of March, 2024.

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21 LARRY R. HICKS  
22 UNITED STATES DISTRICT JUDGE  
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